

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN THE MATTER OF THREE SEALED
SEARCH WARRANTS

CASE NO. H 16-409 M

Consolidated with:

H 16-555 M

H 16-556 M

UNITED STATES' RESPONSE TO DEFENDANT'S BRIEF

The United States of America, by and through its undersigned attorneys, respectfully submits the following response to Justin Smith's Response to Government's Brief and Additional Briefing, Docket No. 54.

On page 4 of the brief, Smith claims "The blowback from the intensive investigation destroyed millions of dollars in equity for Smith and his investors and led to the loss of employment for all employees." In fact, the IRS investigation was not the cause of any loss of business that Smith may have suffered. Rather, any loss of business was a result of Smith's repeated failure to comply with FAA regulations, and the resulting Emergency Cease and Desist Order issued against Justin Smith and his companies by the FAA, which found that Smith was operating aircraft "in a careless or reckless manner so as to endanger the life or property of another." (*See* Cease and Desist Order, Exhibit 1, at 2, ¶ 33).

Indeed, on May 20, 2015, the FAA issued an Emergency Cease and Desist Order to Justin Smith, and his companies ASI Aviation ("ASI") and Aircraft Charter Management Services ("ACMS"). (Cease and Desist Order at 1-2). This Cease and Desist Order provides that: "Justin Smith, ASI, ACMS, and/or any other associated individuals or entities are ordered to immediately cease and desist operating as an air carrier or offering to provide air transportation in the manner

set forth above (or in any other aircraft or for any other clients) until Justin Smith, ASI, ACMS, obtains a valid, effective, and properly issued air carrier operating certificate issued to it by the FAA. (Cease and Desist Order at 8).

In issuing the Cease and Desist Order, the FAA found the following facts to be true:

1. At all times relevant herein, Justin Smith, ASI, and ACMS did not hold a Federal Aviation Administration (“FAA”) air carrier certificate issued under Part 119 of the Federal Aviation Regulations (FAR) and operations specifications issued to operate under Part 135 of the FAR (14 C.F.R. 119 and 135). . . .

7. At all times relevant herein, Justin Smith, ASI and ACMS entered into a scheme and/or deceptive practice to operate aircraft for compensation or hire and/or to provide air transportation for numerous individuals and/or entities without the required FAA air carrier certificate. . . .

33. By reason of the above, Justin Smith, ASI, and/or ACMS operated an aircraft *in a careless or reckless manner so as to endanger the life o[r] property of another*.

(Cease and Desist Order at 2 (emphasis added)). Moreover, paragraph 31 of the Cease and Desist Order lists 13 different safety regulations that Smith failed to comply with in support of the FAA’s finding that Smith was operating aircraft “in a careless or reckless manner so as to endanger the life or property of another.” In addition, the FAA found Justin Smith to be in violation of 25 different sections of the Federal Aviation Regulations as well as 49 U.S.C. § 44711(a)(4). (Cease and Desist Order at 5-8).

Moreover, on September 16, 2016, the United States and Justin Smith entered into a Settlement Agreement. (*See* Settlement Agreement, Exhibit 2). This Settlement Agreement permanently enjoins Justin Smith, ASI, and ACMS from violating the Cease and Desist Order. (Settlement Agreement at 4, ¶ 12).

Respectfully submitted,

ABE MARTINEZ
Acting United States Attorney

/s/ Justin R. Martin
Justin R. Martin
Assistant United States Attorney
1000 Louisiana Street, Suite 2300
Houston, Texas 77002
(713) 567-9000

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing, which was filed electronically, has been delivered automatically to the attorney for Justin Smith by the ECF system.

/s/ Justin R. Martin
Justin R. Martin
Assistant United States Attorney